

Randy Says: Randall Rosa, Elder Law Attorney

Trust Mill Updates

Long-time readers of this column [and of Partnership newsletters] are familiar with the author's wariness where door-to-door trust salesmen are concerned. Various other entities share my misgivings.

The California Advocates for Nursing Home Reform (CANHR) warns that trust mill agents are pushing living trusts and annuities as ways to "protect" assets if you should enter a nursing home.

CANHR points out:

- There is no California Inheritance tax!
- Estates less than \$625,000 (\$1 million by 2006) are exempt from federal inheritance taxes!
- Living trusts are not exempt for Medi-Cal eligibility purposes, and will not protect assets from Medi-Cal estate claims.
- In fact, if you received Medi-Cal and leave your house in a living trust there will be an estate claim!
- Annuities are not protected from Medi-Cal estate claims!

The State Bar of California has also responded to the Trust mill explosion. Recently, the State Bar Continuing Education program sponsored a program entitled "Antidotes for Estate Planning Scams, Botched Trust and Other Disasters". Some of the Trusts put out by these salesmen are out and out frauds, while others are poorly drafted. Whether it be "flawed" or "fraud", the Bar relies on citizens to bring bad trusts to the light of day.

The Estate Planning Trust and Probate section of the State Bar of California has gone so far as to issue an "Ethics Alert", and seeks volunteers "to help monitor the unethical marketing of estate planning services".

REVOCABLE TRUST DISCLOSURE REQUIREMENTS

A new law changes the confidentiality of revocable trusts at the death of a settlor. Under Probate Code Section 16060.5-16061.8, the settlor's death will now trigger a requirement that a trustee notify all trust beneficiaries and "heirs at law" (even those not named as beneficiaries!) [meaning Medi-Cal] of the existence of the trust and of the person's right to obtain a copy of the terms of the trust. The recipient of the notice usually will have only 120 days in which to contest the trust.

As always, see your Elder Law Attorney.

[Please report incidents of "fraud or flawed" trusts to the State of California, Office of the Attorney General, 1300 I Street, Sacramento, CA 95814.]

Mr. Rosa is a respected attorney specializing in Elder-Law. He maintains offices in Sacramento and Lodi. You will find more articles by Mr. Rosa at <http://www.alzwell.com/Legal.html>

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